

Blakely

IN THE DISTRICT COURT
IN AND FOR THE COUNTY OF EL PASO
STATE OF COLORADO
Criminal Action No. C-1616

THE PEOPLE OF THE)
STATE OF COLORADO,)
)
) FINDINGS IN SUPPORT OF ORDER
) FOR ATTORNEYS' FEES
Plaintiff,) and
) ORDER
vs.)
)
THEODORE ROBERT BUNDY,)
)
Defendant.)

Upon consideration of the proposed Order For Attorney's Fees submitted by Kevin R. O'Reilly, with detailed breakdown of time and services attached; and upon consideration of the proposed Order For Attorney's Fees submitted by Kenneth Dresner, Esq., with detailed breakdown of time and services attached; and based upon the file and the Court's familiarity with the proceedings in the case,

IT IS FOUND THAT:

1. The circumstances with respect to the background of this action and of the appointment of Kenneth Dresner, Esq. as advisory counsel for defendant are outlined in Findings In Support of Order For Partial Attorneys' Fees dated August 18, 1977, a copy of which is attached as Exhibit A hereto and is hereby incorporated herein
2. Pursuant to the Findings attached as Exhibit A, Kenneth Dresner, Esq. has been paid \$573.75 for his services and \$82.67 for his expenses, being payment in full for all services performed and expenses incurred, through July 26, 1977.
3. On September 7, 1977, the People filed a notice of intention to introduce evidence of two additional "similar transactions" (Kent and Aime), bringing to four the number of "similar

transactions" involving abductions, disappearances and/or deaths of young women (Kent, Aime, Smith, DaRonch) in the State of Utah which the People proposed to introduce as evidence in this case. This increased the scope of the investigatory and legal work necessary to defense of the case. Motions in limine were prepared and filed seeking exclusion of evidence of all "similar transactions".

4. Periodically, motions were presented and heard dealing with defendant's health, confinement and custodial restraints.

5. Motions and negotiations were necessary to arrive at an appropriate procedure for examination of hair samples by an expert witness in California appointed by the Court to assist the defendant.

6. On September 23, 1977, Kevin O'Reilly, Esq. was appointed as additional advisory counsel for defendant. The serious injuries to prior advisory counsel Stephen Ware at least temporarily caused Kenneth Dresner to remain in Gunnison rather than moving to Aspen. His background in this case made it inadvisable to relieve him of his duties and appoint a substitute advisory counsel. A need existed for advisory counsel located closer than Gunnison. A review of the Pitkin County Bar Association roster revealed no attorneys with an adequate level of prior experience in serious criminal cases who did not have a conflict of interest of some sort. The defendant was incarcerated in the Garfield County Jail in Glenwood Springs. Accordingly, Mr. O'Reilly, an attorney from Glenwood Springs with significant prior experience as a deputy public defender, was selected to act as co-counsel with Mr. Dresner to fill the need for local availability and to assist with the volume of work necessary to prepare for the pre-trial hearings and the trial.

7. Although designated advisory counsel, Messrs O'Reilly and Dresner assisted defendant in legal research, briefing, planning and court appearances in a manner closely analogous to the role

usually performed by counsel in representing defendants fully. This was done with the approval of the defendant and of the Court.

8. Counsel O'Reilly and Dresner assisted defendant in preparation of briefs and argument directed to People's offer of proof relating to the motion in limine seeking to exclude two of the four "similar transactions" from consideration. An order excluding such two "similar transactions" (Kent and Aime) resulted.

9. Counsel O'Reilly and Dresner assisted defendant in preparation of briefs and argument and conduct of a three day evidentiary hearing beginning November 14, 1977, relating to motions to suppress evidence seized by Utah authorities in searches of defendant's vehicle (on two separate occasions) and apartment; motion to suppress eyewitness identification of California witness Harter; motion to suppress eyewitness identification of witness DaRonch; and motion in limine seeking to exclude evidence of the "similar transactions" relating to Smith and DaRonch; and motion in limine to exclude evidence of comparison of hair samples. The briefs on the issues involved in the hearing were extensive.

10. Counsel O'Reilly and Dresner assisted defendant in preparation and argument with respect to a motion for change of venue, resulting in a change of venue to El Paso County.

11. Counsel O'Reilly and Dresner assisted defendant in preparation and argument on December 23, 1977, with respect to the motion to strike the death penalty from consideration; briefing had been accomplished by the public defender before his withdrawal from the case.

12. Counsel Dresner has begun representation of the District Court in connection with an order to show cause issued by the Supreme Court of the State of Colorado directed to whether

the District Court should be prohibited from implementing its ruling that the death penalty is unconstitutional.

13. Counsel O'Reilly and Dresner have adhered to the Court's requirement that duplication of effort be minimal, Mr. O'Reilly having concentrated his efforts on coordination with the client and handling short matters in Court and counsel Dresner having concentrated on necessary legal research, briefing and court appearances.

14. The defendant is no longer in custody;* unless and until he is captured and returned to the jurisdiction, the only additional legal services contemplated in this matter are those of Mr. Dresner in representing the District Court on the order to show cause with respect to the death penalty issue. All pre-trial matters appear to have been resolved, and the case is ready for trial.

15. The issues in the case have been unusually complex, and the charge is first degree murder. The occurrence of many of the allegedly relevant matters in the State of Utah has compounded the complexities with respect to investigation and hearings. The unfortunate serious injuries to attorney Stephen Ware, resulting in his withdrawal from the case, have resulted in complications and additional expense, particularly with respect to travel for attorney Dresner. A copy of the register of actions is attached hereto as Exhibit B and is hereby incorporated herein, to reflect more fully the extent of legal services performed in this case.

Under all these circumstances, it is found that the services performed and expenses incurred by attorneys Dresner and O'Reilly, as reflected on their respective statements, were necessary, and

*Subsequent to preparation of this document, defendant has been apprehended in Florida; he is now in custody in that state.

CLERK'S OFFICE
PITKIN COUNTY
COMBINED COURTS

County and District Courts

County Courthouse
506 E. MAIN ST.
ASPEN, COLORADO 81611
PHONE 925-7635

March 27, 1978

Mr. Hal Webster
El Paso County District Court
Criminal Division
20 East Vermijo
Colorado Springs, Colorado 80903

In re: Pitkin County District Court
Criminal Action No. C-1616
People v. Theodore Robert Bundy

Dear Hal:

Enclosed please find a certified copy of Judge Lohr's Order changing the venue on the above captioned case to the El Paso County District Court. Also enclosed are the complete original file in this action, all exhibits entered at the hearings (with the exception of the exhibits used in the suppression hearings which the Court Reporter is retaining for use in preparing her transcript), and a file which contains the in camera presentations which were sealed by the Court.

Thanks for your assistance.

Very truly yours,

CLERK OF THE DISTRICT COURT

Shirley W. Dills
Shirley W. Dills

For Lohr's 4-2-78

IN THE DISTRICT COURT

COUNTY OF PITKIN

STATE OF COLORADO

Action No. C 1616

JUN 20 1977

SHULLY
BY

DEPT

PEOPLE OF THE STATE OF COLORADO,)

Plaintiff,)

vs.)

MOTION FOR APPOINTMENT

OF CO-COUNSEL

THEODORE BUNDY,)

Defendant.)

COMES NOW Kenneth Dresner, Attorney at Law, and requests that this court enter an Order appointing him as co-counsel for the Defendant in the above case, and as reasons therefore states as follows:

1. That Court appointed counsel, Stephen A. Ware, has requested and is agreeable to said appointment.
2. That, according to Mr. Ware, the defendant, Theodore Bundy, has been made aware of said request and is in favor of the same.
3. That the nature and complexities of the case require additional counsel to aid in the investigation, preparation, and trial of said case.
4. That Mr. Dresner is qualified to handle complicated criminal matters, having been Deputy Public Defender for four years, having been a Deputy District Attorney for one year and having had two additional years in the private practice of criminal law. He has been involved in several other murder cases, along with nearly every other type of criminal case.

WHEREFORE, counsel requests that this Court issue an

Order appointing him co-counsel along with Stephen A. Ware to represent Theodore Bundy.

Respectfully submitted this 17 day of June, 1977.

STEPHEN A. WARE Reg. # 4834
P. O. Box 1016
Aspen, Colorado

Kenneth Dresner
Kenneth Dresner Reg. #4628
Jardon Bldg.-Suite C
307 N. Main
Gunnison, Colorado 81230
641-1444

Granted
6/22/77
BY THE COURT

IN THE DISTRICT COURT

COUNTY OF PITKIN

STATE OF COLORADO

Action No. C 1616

JUN 20 1977

SHAWLEY, J. W. & S. C. C.

By

DEPUTY

PEOPLE OF THE STATE OF COLORADO,)
)
Plaintiff,)
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vs.)

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Defendant.)

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COUNTY OF PITKIN

STATE OF COLORADO

Action No. C 1616

JUN 20 1977

SHIRLEY W. DRESNER, Clerk
By _____

DEPUTY

PEOPLE OF THE STATE OF COLORADO,)

Plaintiff,)

vs.)

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Granted
6/22/77
BY THE COURT

REGISTER OF ACTIONS

Case No. 62-1616 District Court Utah County

authorize the payment of a sum up to \$1,000.00 for his services. Monthly billings would be acceptable to the Court. Defendant to prepare appropriate Order in this regard. Defendant's Motion to Strike Two Additional Similar Transactions will be set for hearing Sept. 23, 1977 at 1:00 p.m. Defendant's Motion for Appointment of Additional Advisory Counsel & Investigator. Court instructs Defendant to bring matter of use of Public Defender's Office in Utah as additional investigator back to the Court on Sept. 23rd with further information in regard to the arrangements that can be made with that office. In re appointment of additional counsel. Court will entertain the possibility of additional advisory counsel if it can be assured that a duplication of e-forts will not occur. Court will give one week to evaluate this matter and report back to Court on Sept. 23. People's Motion for In Camera Presentation of Non-Material Information requested by Defendant will be handled in the same fashion as prior motion for same was handled.

MEMORANDUM OF PROCEEDINGS

Date

9/15/77

*Motion for Certificate of Judgment regarding evidence of DA of State Subpoena.
Re: Pending Prosecution of Two Material Informations
Requested by Defendant (Sealed)*

9/23/77

People vs. Bundy
Lohr-Johnston-Kaplanoff DA-Blakey
Defendant present with counsel, Ken Dresner. Stipulation reached on Chain of Custody for Hair Samples. Def Bundy to advise DA Blakey by 10/7/77 1:00 p.m. w/ respect to his needs re: 3 Record Custodian to be subpoenaed from Utah. Def Bundy argued to strike Motions file by DA on Two Similar Transactions involving Kent and Aime cases. DA Blakey opposed Motion to Strike as inappropriate. Judge Lohr suggested that an Offer of Proof be made. DA Blakey was amenable and will be heard on 10/7/77 1:00 p.m. in camera. Dresner requested discovery materials be sealed and submission to be argued. An in camera hearing was held to obtain additional advisory counsel Kevin O'Reilly was appointed and is expected to be prepared to appear at all hearings if Atty Dresner cannot appear due to Gunnison location.

10/6/77

Stipulation between People v. Defendant, hearing scheduled for 10/7/77 in a set for 10/21/77 at 1:00 p.m. Both parties being unable to be prepared for the hearing.

10/19/77

Motion for Certificate of Judgment to compel the attendance of witness from Another State.

10/21/77

Offer of Proof on the Two Similar Transactions (Sealed by Order of the Court)
Order (Re: Appointment of Investigator)
Motion to Move the Hearing on Motion set for November 14, 1977 to Glenwood Springs, Colorado
Motion to Permit Defendant to Inspect the Crime Scene
Notice of Defendant's Request that District Attorney provide Pre-Trial Hearing Witness List in Advance of Hearing
Def Bundy's List of Needs to DA Blakey w/ respect to Records Subpoenaed from Utah

11/7/77

Re: Pending Prosecution of Two Material Informations (Sealed)